

Part 1 General Provisions

62A-4a-101 Definitions.

As used in this chapter:

- (1) "Abuse" is as defined in Section 78A-6-105.
- (2) "Adoption services" means:
 - (a) placing children for adoption;
 - (b) subsidizing adoptions under Section 62A-4a-105;
 - (c) supervising adoption placements until the adoption is finalized by the court;
 - (d) conducting adoption studies;
 - (e) preparing adoption reports upon request of the court; and
 - (f) providing postadoptive placement services, upon request of a family, for the purpose of stabilizing a possible disruptive placement.
- (3) "Child" means, except as provided in Part 7, Interstate Compact on Placement of Children, a person under 18 years of age.
- (4) "Consumer" means a person who receives services offered by the division in accordance with this chapter.
- (5) "Chronic abuse" means repeated or patterned abuse.
- (6) "Chronic neglect" means repeated or patterned neglect.
- (7) "Custody," with regard to the division, means the custody of a minor in the division as of the date of disposition.
- (8) "Day-care services" means care of a child for a portion of the day which is less than 24 hours:
 - (a) in the child's own home by a responsible person; or
 - (b) outside of the child's home in a:
 - (i) day-care center;
 - (ii) family group home; or
 - (iii) family child care home.
- (9) "Dependent child" or "dependency" means a child, or the condition of a child, who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.
- (10) "Director" means the director of the Division of Child and Family Services.
- (11) "Division" means the Division of Child and Family Services.
- (12) "Domestic violence services" means:
 - (a) temporary shelter, treatment, and related services to:
 - (i) a person who is a victim of abuse, as defined in Section 78B-7-102; and
 - (ii) the dependent children of a person described in Subsection (12)(a)(i); and
 - (b) treatment services for a person who is alleged to have committed, has been convicted of, or has pled guilty to, an act of domestic violence as defined in Section 77-36-1.
- (13) "Harm" is as defined in Section 78A-6-105.
- (14) "Homemaking service" means the care of individuals in their domiciles, and help given to individual caretaker relatives to achieve improved household and family management through the services of a trained homemaker.
- (15) "Incest" is as defined in Section 78A-6-105.
- (16) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of Children:
 - (a) a child; or
 - (b) a person:
 - (i) who is at least 18 years of age and younger than 21 years of age; and

- (ii) for whom the division has been specifically ordered by the juvenile court to provide services.
- (17) "Molestation" is as defined in Section 78A-6-105.
- (18) "Natural parent" means a minor's biological or adoptive parent, and includes a minor's noncustodial parent.
- (19) "Neglect" is as defined in Section 78A-6-105.
- (20) "Protective custody," with regard to the division, means the shelter of a child by the division from the time the child is removed from the child's home until the earlier of:
 - (a) the shelter hearing; or
 - (b) the child's return home.
- (21) "Protective services" means expedited services that are provided:
 - (a) in response to evidence of neglect, abuse, or dependency of a child;
 - (b) to a cohabitant who is neglecting or abusing a child, in order to:
 - (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and
 - (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
 - (c) in cases where the child's welfare is endangered:
 - (i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;
 - (ii) to cause a protective order to be issued for the protection of the child, when appropriate; and
 - (iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:
 - (A) removal from the child's home;
 - (B) placement in substitute care; and
 - (C) petitioning the court for termination of parental rights.
- (22) "Severe abuse" is as defined in Section 78A-6-105.
- (23) "Severe neglect" is as defined in Section 78A-6-105.
- (24) "Sexual abuse" is as defined in Section 78A-6-105.
- (25) "Sexual exploitation" is as defined in Section 78A-6-105.
- (26) "Shelter care" means the temporary care of a minor in a nonsecure facility.
- (27) "State" means:
 - (a) a state of the United States;
 - (b) the District of Columbia;
 - (c) the Commonwealth of Puerto Rico;
 - (d) the Virgin Islands;
 - (e) Guam;
 - (f) the Commonwealth of the Northern Mariana Islands; or
 - (g) a territory or possession administered by the United States.
- (28) "State plan" means the written description of the programs for children, youth, and family services administered by the division in accordance with federal law.
- (29) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.
- (30) "Substance abuse" is as defined in Section 78A-6-105.
- (31) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence that abuse or neglect occurred. Each allegation made or identified in a given case shall be considered separately in determining whether there should be a finding of substantiated.
- (32) "Substitute care" means:

- (a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;
 - (b) services provided for a minor awaiting placement; and
 - (c) the licensing and supervision of a substitute care facility.
- (33) "Supported" means a finding by the division based on the evidence available at the completion of an investigation that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred. Each allegation made or identified during the course of the investigation shall be considered separately in determining whether there should be a finding of supported.
- (34) "Temporary custody," with regard to the division, means the custody of a child in the division from the date of the shelter hearing until disposition.
- (35) "Transportation services" means travel assistance given to an individual with escort service, if necessary, to and from community facilities and resources as part of a service plan.
- (36) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse or neglect occurred.
- (37) "Unsupported" means a finding at the completion of an investigation that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a finding of unsupported means also that the division worker did not conclude that the allegation was without merit.
- (38) "Without merit" means a finding at the completion of an investigation by the division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

Amended by Chapter 75, 2009 General Session

62A-4a-102 Policy responsibilities of division.

- (1) The Division of Child and Family Services, created in Section 62A-4a-103, is responsible for establishing policies for the division, by rule, under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act, regarding abuse, neglect, and dependency proceedings, and domestic violence services. The division is responsible to see that the legislative purposes for the division are carried out.
- (2) The division shall:
- (a) approve fee schedules for programs within the division;
 - (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish, by rule, policies to ensure that private citizens, consumers, foster parents, private contract providers, allied state and local agencies, and others are provided with an opportunity to comment and provide input regarding any new policy or proposed revision of an existing policy; and
 - (c) provide a mechanism for:
 - (i) systematic and regular review of existing policies, including an annual review of all division policies to ensure that policies comply with the Utah Code; and
 - (ii) consideration of policy changes proposed by the persons and agencies described in Subsection (2)(b).
- (3)
- (a) The division shall establish rules for the determination of eligibility for services offered by the division in accordance with this chapter.

- (b) The division may, by rule, establish eligibility standards for consumers.
- (4) The division shall adopt and maintain rules regarding placement for adoption or foster care that are consistent with, and no more restrictive than, applicable statutory provisions.

Amended by Chapter 258, 2015 General Session

62A-4a-103 Division -- Creation -- Purpose.

- (1)
 - (a) There is created the Division of Child and Family Services within the department, under the administration and general supervision of the executive director.
 - (b) The division is the child, youth, and family services authority of the state and has all functions, powers, duties, rights, and responsibilities created in accordance with this chapter, except those assumed by the department.
- (2)
 - (a) The primary purpose of the division is to provide child welfare services.
 - (b) The division shall, when possible and appropriate, provide in-home services for the preservation of families in an effort to protect the child from the trauma of separation from his family, protect the integrity of the family, and the constitutional rights of parents. In keeping with its ultimate goal and purpose of protecting children, however, when a child's welfare is endangered or reasonable efforts to maintain or reunify a child with his family have failed, the division shall act in a timely fashion in accordance with the requirements of this chapter and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, to provide the child with a stable, permanent environment.
- (3) The division shall also provide domestic violence services in accordance with federal law.

Amended by Chapter 265, 2014 General Session

62A-4a-104 Director of division -- Qualifications.

- (1) The director of the division shall be appointed by the executive director.
- (2) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in the areas of child and family services, including child protective services, family preservation, and foster care.
- (3) The director is the administrative head of the division.

Amended by Chapter 75, 2009 General Session

62A-4a-105 Division responsibilities.

- (1) The division shall:
 - (a) administer services to minors and families, including:
 - (i) child welfare services;
 - (ii) domestic violence services; and
 - (iii) all other responsibilities that the Legislature or the executive director may assign to the division;
 - (b) provide the following services:
 - (i) financial and other assistance to an individual adopting a child with special needs under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the child as a legal ward of the state;
 - (ii) non-custodial and in-home services, including:

- (A) services designed to prevent family break-up; and
- (B) family preservation services;
- (iii) reunification services to families whose children are in substitute care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;
- (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;
- (v) shelter care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;
- (vi) domestic violence services, in accordance with the requirements of federal law;
- (vii) protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;
- (viii) substitute care for dependent, abused, neglected, and delinquent children;
- (ix) programs and services for minors who have been placed in the custody of the division for reasons other than abuse or neglect, under Section 62A-4a-250;
- (x) services for minors who are victims of human trafficking or human smuggling as described in Sections 76-5-308 through 76-5-310 or who have engaged in prostitution or sexual solicitation as defined in Section 76-10-1302; and
- (xi) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;
- (c) establish standards for all:
 - (i) contract providers of out-of-home care for minors and families;
 - (ii) facilities that provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division; and
 - (iii) direct or contract providers of domestic violence services described in Subsection (1)(b)(vi);
- (d) have authority to:
 - (i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and
 - (ii) approve facilities that meet the standards established under Subsection (1)(c) to provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division;
- (e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;
- (f) in accordance with Subsection (2)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, dependent, delinquent, ungovernable, and runaway children, and status offenders, in accordance with the requirements of this chapter, unless administration is expressly vested in another division or department of the state;
- (g) cooperate with the Workforce Development Division in the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;
- (h) compile relevant information, statistics, and reports on child and family service matters in the state;
- (i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;
- (j) provide social studies and reports for the juvenile court in accordance with Section 78A-6-605;
- (k) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

- (l) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:
 - (i) have a permanency goal of adoption; or
 - (ii) have a final plan of termination of parental rights, pursuant to Section 78A-6-314, and promote adoption of those children;
 - (m) subject to Subsection (2)(b), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test; and
 - (n) perform other duties and functions required by law.
- (2)
- (a) In carrying out the requirements of Subsection (1)(f), the division shall:
 - (i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions, to develop and administer a broad range of services and support;
 - (ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and
 - (iii) make expenditures necessary for the care and protection of the children described in this Subsection (2)(a), within the division's budget.
 - (b) When an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (1)(n), the court shall order the individual to pay all costs of the tests unless:
 - (i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;
 - (ii) the individual is a participant in a drug court; or
 - (iii) the court finds that the individual is impecunious.
- (3) Except to the extent provided by rule, the division is not responsible for investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.
- (4) The division may not require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo.

Amended by Chapter 296, 2016 General Session

62A-4a-105.5 Employees -- Failure to comply with policy -- Termination.

- (1) The director shall ensure that all employees are fully trained to comply with state and federal law, administrative rules, and division policy in order to effectively carry out their assigned duties and functions.
- (2) If, after training and supervision, the employee consistently fails to comply with those laws, rules, and policies, his employment with the division shall be terminated.

Enacted by Chapter 260, 1994 General Session

62A-4a-106 Services provided by division.

- (1) The division may provide, directly or through contract, services that include the following:
 - (a) adoptions;
 - (b) day care for children;
 - (c) out-of-home placements for minors;
 - (d) health-related services;
 - (e) homemaking services;

- (f) home management services;
 - (g) protective services for minors;
 - (h) transportation services; and
 - (i) domestic violence services.
- (2) Services provided directly by the division or through contract shall be monitored by the division to insure compliance with applicable:
- (a) state law; and
 - (b) standards and rules of the division.
- (3) When the division provides a service through a private contract, not including a foster parent placement, the division shall post the name of the service provider on the division's website.
- (4) Unless a parent or guardian of a child who is adopted from the custody of the division expressly requests otherwise, the division may not, solely on the basis that the parent or guardian contacts the division regarding services or requests services from the division:
- (a) remove or facilitate the removal of a child from the child's home;
 - (b) file a petition for removal of a child from the child's home;
 - (c) file a petition for a child protective order;
 - (d) make a supported finding;
 - (e) seek a substantiated finding;
 - (f) file a petition alleging that a child is abused, neglected, dependent, or abandoned; or
 - (g) file a petition for termination of parental rights.
- (5)
- (a) The division shall, to the extent that sufficient funds are available, use out-of-home funds to provide services to a child who is adopted from the custody of the division, without requiring that a parent terminate parental rights, or that a parent or legal guardian of the child transfer or surrender custodial rights, in order to receive the services.
 - (b) The division may not require, request, or recommend that a parent terminate parental rights, or that a parent or guardian transfer or surrender custodial rights, in order to receive services, using out-of-home funds, for a child who is adopted from the custody of the division.
- (6)
- (a) As used in this Subsection (6), "vendor services" means services that a person provides under contract with the division.
 - (b) If a parent or guardian of a child who is adopted from the custody of the division requests vendor services from the division, the division shall refer the parent or guardian to a provider of vendor services, at the parent's or guardian's expense, if:
 - (i)
 - (A) the parent, guardian, or child is not eligible to receive the vendor services from the division; or
 - (B) the division does not have sufficient funds to provide the services to the parent, guardian, or child;
 - (ii) the parent, guardian, or child does not have insurance or other funds available to receive the services without the referral; and
 - (iii) the parent or guardian desires the referral.
 - (c) If the division awards, extends, or renews a contract with a vendor for vendor services, the division shall include in the contract a requirement that a vendor to whom the division makes a referral under Subsection (6)(b):
 - (i) provide services to the parent, guardian, or child at a rate that does not exceed the rate that the vendor charges the division for the services; and

- (ii) may not charge the parent, guardian, or child any fee that the vendor does not charge the division.

Amended by Chapter 219, 2016 General Session

62A-4a-107 Mandatory education and training of caseworkers -- Development of curriculum.

- (1) There is created within the division a full-time position of Child Welfare Training Coordinator, who shall be appointed by and serve at the pleasure of the director. The employee in that position is not responsible for direct casework services or the supervision of those services, but is required to:
 - (a) develop child welfare curriculum that:
 - (i) is current and effective, consistent with the division's mission and purpose for child welfare; and
 - (ii) utilizes curriculum and resources from a variety of sources including those from:
 - (A) the public sector;
 - (B) the private sector; and
 - (C) inside and outside of the state;
 - (b) recruit, select, and supervise child welfare trainers;
 - (c) develop a statewide training program, including a budget and identification of sources of funding to support that training;
 - (d) evaluate the efficacy of training in improving job performance;
 - (e) assist child protective services and foster care workers in developing and fulfilling their individual training plans;
 - (f) monitor staff compliance with division training requirements and individual training plans; and
 - (g) expand the collaboration between the division and schools of social work within institutions of higher education in developing child welfare services curriculum, and in providing and evaluating training.
- (2)
 - (a) The director shall, with the assistance of the child welfare training coordinator, establish a core curriculum for child welfare services that is substantially equivalent to the Child Welfare League of America's Core Training for Child Welfare Caseworkers Curriculum.
 - (b) Any child welfare caseworker who is employed by the division for the first time after July 1, 1999, shall, before assuming significant independent casework responsibilities, successfully complete:
 - (i) the core curriculum; and
 - (ii) except as provided in Subsection (2)(c), on-the-job training that consists of observing and accompanying at least two capable and experienced child welfare caseworkers as they perform work-related functions:
 - (A) for three months if the caseworker has less than six months of on-the-job experience as a child welfare caseworker; or
 - (B) for two months if the caseworker has six months or more but less than 24 months of on-the-job experience as a child welfare caseworker.
 - (c) A child welfare caseworker with at least 24 months of on-the-job experience is not required to receive on-the-job training under Subsection (2)(b)(ii).
- (3) Child welfare caseworkers shall complete training in:
 - (a) the legal duties of a child welfare caseworker;
 - (b) the responsibility of a child welfare caseworker to protect the safety and legal rights of children, parents, and families at all stages of a case, including:

- (i) initial contact;
- (ii) investigation; and
- (iii) treatment;
- (c) recognizing situations involving:
 - (i) substance abuse;
 - (ii) domestic violence;
 - (iii) abuse; and
 - (iv) neglect; and
- (d) the relationship of the Fourth and Fourteenth Amendments of the Constitution of the United States to the child welfare caseworker's job, including:
 - (i) search and seizure of evidence;
 - (ii) the warrant requirement;
 - (iii) exceptions to the warrant requirement; and
 - (iv) removing a child from the custody of the child's parent or guardian.
- (4) The division shall train its child welfare caseworkers to apply the risk assessment tools and rules described in Subsection 62A-4a-1002(2).
- (5) The division shall use the training of child welfare caseworkers to emphasize:
 - (a) the importance of maintaining the parent-child relationship whenever possible;
 - (b) the preference for providing in-home services over taking a child into protective custody, both for the emotional well-being of the child and the efficient allocation of resources; and
 - (c) the importance and priority of:
 - (i) kinship placement in the event a child must be taken into protective custody; and
 - (ii) guardianship placement, in the event the parent-child relationship is legally terminated and no appropriate adoptive placement is available.
- (6) When a child welfare caseworker is hired, before assuming significant independent casework responsibilities, the child welfare caseworker shall complete the training described in Subsections (3) through (5).

Amended by Chapter 171, 2013 General Session

62A-4a-107.5 Private recruitment and training of foster care parents and child welfare volunteers -- Extension of immunity.

- (1) The division may contract with one or more private, nonprofit organizations to recruit and train foster care parents and child welfare volunteers on a statewide or regional basis.
- (2) An organization that contracts with the division pursuant to Subsection (1) shall agree to:
 - (a) increase the number of licensed and trained foster care parents in the geographic area covered by:
 - (i) developing a strategic plan;
 - (ii) assessing the needs, perceptions, and qualities of potential foster care parents;
 - (iii) assessing the needs, perceptions, and qualities of children in state custody;
 - (iv) identifying potential foster care parents through public and private resources;
 - (v) screening foster care parent applicants;
 - (vi) providing preservice, ongoing, and customized training to foster care parents;
 - (vii) developing a competency-based training curriculum with input from public and private resources and approved by the division;
 - (viii) focusing training exercises on skill development; and
 - (ix) supporting foster care parents by supplying staff support, identifying common issues, encouraging peer support, and connecting available resources;

- (b) increase the number of child welfare volunteers in the geographical area covered by:
 - (i) developing a strategic plan;
 - (ii) seeking the participation of established volunteer organizations;
 - (iii) designing and offering initial orientation sessions to child welfare volunteers;
 - (iv) informing volunteers of options for service as specified by the division; and
 - (v) facilitating the placement and certification of child welfare volunteers;
 - (c) coordinate efforts, where appropriate, with the division;
 - (d) seek private contributions in furtherance of the organization's activities under this Subsection (2);
 - (e) perform other related services and activities as may be required by the division; and
 - (f) establish a system for evaluating performance and obtaining feedback on the activities performed pursuant to this Subsection (2).
- (3) Notwithstanding Subsection (2), the department shall retain ultimate authority over and responsibility for:
- (a) initial and ongoing training content, material, curriculum, and techniques, and certification standards used by an organization; and
 - (b) screening, investigation, licensing, certification, referral, and placement decisions with respect to any person recruited or trained by an organization.
- (4)
- (a) An organization under contract with the department and its directors, trustees, officers, employees, and agents, whether compensated or not, may not be held civilly liable for any act or omission on a matter for which the department retains ultimate authority and responsibility under Subsection (3).
 - (b) Nothing in Subsection (4)(a) may be construed as altering the abuse and neglect reporting requirements of Section 62A-4a-403, regardless of whether the facts that give rise to such a report occur before or after a screening, investigation, licensing, or placement decision of the department.
- (5) A referring entity or a referring individual that voluntarily and without remuneration assists the organization to identify and recruit foster care parents or child welfare volunteers is not liable in any civil action for any act or omission of:
- (a) the referring entity or the referring individual, which is performed in good faith and in furtherance of the entity's assistance to the organization; or
 - (b) any person directly or indirectly referred to the organization by the entity as a foster care parent or child welfare volunteer, if the referring individual was without actual knowledge of any substantiated fact that would have disqualified the person from such a position at the time the referral was made.
- (6) As used in this section:
- (a) "referring entity" means:
 - (i) an incorporated or unincorporated organization or association whether formally incorporated or otherwise established and operating for religious, charitable, or educational purposes which does not distribute any of its income or assets to its members, directors, officers, or other participants;
 - (ii) any organization which is described in Section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from tax under Section 501 of the Internal Revenue Code; or
 - (iii) any not-for-profit organization which is formed and conducted for public benefit and operated primarily for charitable, civic, educational, religious, benevolent, welfare, or health purposes; and
 - (b) "referring individual" means an individual:

- (i) with the authority to act on behalf of a referring entity in making a referral; and
- (ii) who may or may not be compensated by the referring entity.

Amended by Chapter 299, 2008 General Session

62A-4a-109 Eligibility -- Fee schedules.

- (1) The division may establish, by rule, eligibility standards for consumers.
- (2) The division shall assess a fee for services that it provides in accordance with this chapter, based on the fee schedule approved in accordance with Section 62A-4a-102.

Amended by Chapter 75, 2009 General Session

62A-4a-110 Receipt of gifts -- Volunteer services.

- (1) The division may receive gifts, grants, devises, and donations. These gifts, grants, devises, donations, or their proceeds shall be credited to the program which the donor designates and may be used for the purposes requested by the donor, if the request conforms to state and federal policy. If a donor makes no specific request, the division may use the gift, grant, devise, or donation for the best interest of the division.
- (2) The division may:
 - (a) accept and use volunteer labor or services of applicants, recipients, and other members of the community. The division may reimburse volunteers for necessary expenses, including transportation, and provide recognition awards and recognition meals for services rendered. The division may cooperate with volunteer organizations in collecting funds to be used in the volunteer program. Those donated funds shall be considered as private, nonlapsing funds until used by the division, and may be invested under guidelines established by the state treasurer;
 - (b) encourage merchants and providers of services to donate goods and services or to provide them at a nominal price or below cost;
 - (c) distribute goods to applicants or consumers free or for a nominal charge and tax free; and
 - (d) appeal to the public for funds to meet applicants' and consumers' needs which are not otherwise provided for by law. Those appeals may include Sub-for-Santa Programs, recreational programs for minors, and requests for household appliances and home repairs, under rules established by the division.

Amended by Chapter 75, 2009 General Session

62A-4a-111 Fraudulently obtained services -- Recovery.

If it is discovered that a person is fraudulently obtaining, or has fraudulently obtained, services offered by the division in accordance with this chapter, the division shall take all necessary steps, including legal action through the attorney general, to recover all money or the value of services fraudulently obtained. The division may establish an agreement with the Office of Recovery Services to fulfill the requirements of this section.

Renumbered and Amended by Chapter 260, 1994 General Session

62A-4a-112 Request to examine family services payment.

- (1) An individual who is a taxpayer and resident of this state and who desires to examine a payment for services offered by the division in accordance with this chapter, shall sign a

statement using a form prescribed by the division. That statement shall include the assertion that the individual is a taxpayer and a resident, and shall include a commitment that any information obtained will not be used for commercial or political purposes. No partial or complete list of names, addresses, or amounts of payment may be made by any individual under this subsection, and none of that information may be removed from the offices of the division.

- (2) The division shall, after due consideration of the public interest, define the nature of confidential information to be safeguarded by the division and shall establish policies and rules to govern the custody and disclosure of confidential information, as well as to provide access to information regarding payments for services offered by the division.
- (3) This section does not prohibit the division or its agents, or individuals, commissions, or agencies duly authorized for the purpose, from making special studies or from issuing or publishing statistical material and reports of a general character. This section does not prohibit the division or its representatives or employees from conveying or providing to local, state, or federal governmental agencies written information that would affect an individual's eligibility or ineligibility for financial service, or other beneficial programs offered by that governmental agency. Access to the division's program plans, policies, and records, as well as consumer records and data, is governed by Title 63G, Chapter 2, Government Records Access and Management Act.
- (4) Violation of this section is a class B misdemeanor.

Amended by Chapter 75, 2009 General Session

62A-4a-113 Division's enforcement authority -- Responsibility of attorney general to represent division.

- (1) The division shall take legal action that is necessary to enforce the provisions of this chapter.
- (2)
 - (a) Subject to the provisions of Section 67-5-17, the attorney general shall enforce all provisions of this chapter, in addition to the requirements of Title 78A, Chapter 6, Juvenile Court Act of 1996, relating to protection and custody of abused, neglected, or dependent minors. The attorney general may contract with the local county attorney to enforce the provisions of this chapter and Title 78A, Chapter 6, Juvenile Court Act of 1996.
 - (b) It is the responsibility of the attorney general's office to:
 - (i) advise the division regarding decisions to remove a minor from the minor's home;
 - (ii) represent the division in all court and administrative proceedings related to abuse, neglect, and dependency including, but not limited to, shelter hearings, dispositional hearings, dispositional review hearings, periodic review hearings, and petitions for termination of parental rights; and
 - (iii) be available to and advise caseworkers on an ongoing basis.
 - (c) The attorney general shall designate no less than 16 full-time attorneys to advise and represent the division in abuse, neglect, and dependency proceedings, including petitions for termination of parental rights. Those attorneys shall devote their full time and attention to that representation and, insofar as it is practicable, shall be housed in or near various offices of the division statewide.
- (3) As of July 1, 1998, the attorney general's office shall represent the division with regard to actions involving minors who have not been adjudicated as abused or neglected, but who are otherwise committed to the custody of the division by the juvenile court, and who are classified in the division's management information system as having been placed in custody primarily on

the basis of delinquent behavior or a status offense. Nothing in this section may be construed to affect the responsibility of the county attorney or district attorney to represent the state in those matters, in accordance with Section 78A-6-115.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 299, 2008 General Session

62A-4a-114 Financial reimbursement by parent or legal guardian.

- (1) Except as provided in Subsection (5), the division shall seek reimbursement of funds it has expended on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parents or legal guardians in accordance with an order for child support under Section 78A-6-1106.
- (2) A parent or any other obligated person is not responsible for support for periods of time that a child is removed upon a finding by the juvenile court that there were insufficient grounds for that removal and that child is returned to the home of the parent, parents, or legal guardians based upon that finding.
- (3) In the event that the juvenile court finds that there were insufficient grounds for the initial removal, but that the child is to remain in the custody of the state, the juvenile court shall order that the parents or any other obligated persons are responsible for support from the point at which it became improper to return the child to the home of the child's parent, parents, or legal guardians.
- (4) The attorney general shall represent the division in any legal action taken to enforce this section.
- (5)
 - (a) A parent or any other obligated person is not responsible for support if:
 - (i) the parent or other obligated person's only source of income is a government-issued disability benefit; and
 - (ii) the benefit described in Subsection (5)(a)(i) is issued because of the parent or other person's disability, and not the child's disability.
 - (b) A person who seeks to be excused from providing support under Subsection (5)(a) shall provide the division and the Office of Recovery Services with evidence that the person meets the requirements of Subsection (5)(a).

Amended by Chapter 416, 2013 General Session

62A-4a-115 Administrative proceedings.

The department and division shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.

Amended by Chapter 75, 2009 General Session

62A-4a-117 Performance monitoring system -- Annual report.

- (1) As used in this section:
 - (a) " Council" means the Child Welfare Improvement Council established under Section 62A-4a-311.
 - (b) "Performance indicators" means actual performance in a program, activity, or other function for which there is a performance standard.
 - (c)

- (i) "Performance standards" means the targeted or expected level of performance of each area in the child welfare system, including:
 - (A) child protection services;
 - (B) adoption;
 - (C) foster care; and
 - (D) other substitute care.
 - (ii) "Performance standards" includes the performance goals and measures in effect in 2008 that the division was subject to under federal court oversight, as amended pursuant to Subsection (2), including:
 - (A) the qualitative case review; and
 - (B) the case process review.
- (2)
- (a) The division may not amend the performance standards unless the amendment is:
 - (i) necessary and proper for the effective administration of the division; or
 - (ii) necessary to comply with, or implement changes in, the law.
 - (b) Before amending the performance standards, the division shall provide written notice of the proposed amendment to the council.
 - (c) The notice described in Subsection (2)(b) shall include:
 - (i) the proposed amendment;
 - (ii) a summary of the reason for the proposed amendment; and
 - (iii) the proposed effective date of the amendment.
 - (d) Within 45 days after the day on which the division provides the notice described in Subsection (2)(b) to the council, the council shall provide to the division written comments on the proposed amendment.
 - (e) The division may not implement a proposed amendment to the performance standards until the earlier of:
 - (i) seven days after the day on which the division receives the written comments regarding the proposed change described in Subsection (2)(d); or
 - (ii) 52 days after the day on which the division provides the notice described in Subsection (2)(b) to the council.
 - (f) The division shall:
 - (i) give full, fair, and good faith consideration to all comments and objections received from the council;
 - (ii) notify the council in writing of:
 - (A) the division's decision regarding the proposed amendment; and
 - (B) the reasons that support the decision;
 - (iii) include complete information on all amendments to the performance standards in the report described in Subsection (4); and
 - (iv) post the changes on the division's website.
- (3) The division shall maintain a performance monitoring system to regularly:
- (a) collect information on performance indicators; and
 - (b) compare performance indicators to performance standards.
- (4) Before January 1 each year the director shall submit a written report to the Child Welfare Legislative Oversight Panel and the Social Services Appropriations Subcommittee that includes:
- (a) a comparison between the performance indicators for the prior fiscal year and the performance standards;
 - (b) for each performance indicator that does not meet the performance standard:

- (i) the reason the standard was not met;
- (ii) the measures that need to be taken to meet the standard; and
- (iii) the division's plan to comply with the standard for the current fiscal year;
- (c) data on the extent to which new and experienced division employees have received training pursuant to statute and division policy; and
- (d) an analysis of the use and efficacy of in-home services, both before and after removal of a child from the child's home.

Amended by Chapter 231, 2016 General Session

62A-4a-118 Annual review of child welfare referrals and cases by executive director -- Accountability to the Legislature -- Review by legislative auditor general.

- (1) The division shall use principles of quality management systems, including statistical measures of processes of service, and the routine reporting of performance data to employees.
- (2)
 - (a) In addition to development of quantifiable outcome measures and performance measures in accordance with Section 62A-4a-117, the executive director, or his designee, shall annually review a randomly selected sample of child welfare referrals to and cases handled by the division. The purpose of that review shall be to assess whether the division is adequately protecting children and providing appropriate services to families, in accordance with the provisions of Title 62A, Chapter 4a, Child and Family Services, and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and Part 5, Termination of Parental Rights Act. The review shall focus directly on the outcome of cases to children and families, and not simply on procedural compliance with specified criteria.
 - (b) The executive director shall report, regarding his review of those cases, to the legislative auditor general and the Child Welfare Legislative Oversight Panel.
 - (c) Information obtained as a result of the review shall be provided to caseworkers, supervisors, and division personnel involved in the respective cases, for purposes of education, training, and performance evaluation.
- (3) The executive director's review and report to the Legislature shall include:
 - (a) the criteria used by the executive director, or his designee, in making the evaluation;
 - (b) findings regarding whether state statutes, division policy, and legislative policy were followed in each sample case;
 - (c) findings regarding whether, in each sample case, referrals, removals, or cases were appropriately handled by the division and its employees, and whether children were adequately and appropriately protected and appropriate services provided to families, in accordance with the provisions of Title 62A, Chapter 4a, Child and Family Services, Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and Part 5, Termination of Parental Rights Act, and division policy;
 - (d) an assessment of the division's intake procedures and decisions, including an assessment of the appropriateness of decisions not to accept referrals; and
 - (e) an assessment of the appropriateness of the division's assignment of priority.
- (4)
 - (a) In addition to the review conducted by the executive director, beginning July 1, 2004, the legislative auditor general shall audit a sample of child welfare referrals to and cases handled by the division and report his findings to the Child Welfare Legislative Oversight Panel.
 - (b) An audit under Subsection (4)(a) shall be conducted at least once every three years, but may be conducted more frequently pursuant to Subsection (4)(d).

- (c) With regard to the sample of referrals, removals, and cases, the Legislative Auditor General's report may include:
 - (i) findings regarding whether state statutes, division policy, and legislative policy were followed by the division and its employees;
 - (ii) a determination regarding whether referrals, removals, and cases were appropriately handled by the division and its employees, and whether children were adequately and appropriately protected and appropriate services provided for families, in accordance with the provisions of Title 62A, Chapter 4a, Child and Family Services, Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and Part 5, Termination of Parental Rights Act, and division policy;
 - (iii) an assessment of the division's intake procedures and decisions, including an assessment of the appropriateness of decisions not to accept referrals;
 - (iv) an assessment of the appropriateness of the division's assignment of priority;
 - (v) a determination regarding whether the department's review process is effecting beneficial change within the division and accomplishing the mission established by the Legislature and the department for that review process; and
 - (vi) findings regarding any other issues identified by the auditor or others under Subsection (4) (d).
- (d) An audit under Subsection (4)(a) may be initiated by:
 - (i) the Audit Subcommittee of the Legislative Management Committee;
 - (ii) the Child Welfare Legislative Oversight Panel; or
 - (iii) the Legislative Auditor General, based on the results of the executive director's review under Subsection (2).

Amended by Chapter 3, 2008 General Session

62A-4a-119 Division required to produce "family impact statement" with regard to rules.

Beginning May 1, 2000, whenever the division establishes a rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, those processes shall include an assessment of the impact of that rule on families. Those assessments shall determine the impact of the rule on the authority of parents to oversee the care, supervision, upbringing, and education of children in the parents' custody. The division shall publish a family impact statement describing those assessments and determinations, within 90 days of the establishment of each rule.

Amended by Chapter 75, 2009 General Session

62A-4a-120 Accommodation of moral and religious beliefs and culture.

- (1) The division shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and establish procedures to accommodate the moral and religious beliefs, and culture, of the minors and families it serves, including:
 - (a) the immediate family and other relatives of a minor in any type of custody or otherwise under the jurisdiction of the court;
 - (b) foster and other out-of-home placement families; and
 - (c) adoptive families.
- (2) The accommodation under Subsection (1) applies to placements, treatment plans, services, and other activities of the division.

Amended by Chapter 382, 2008 General Session

62A-4a-121 Reimbursement of motor vehicle insurance coverage for foster child.

- (1) Within the amounts appropriated to the division for the purposes described in this section, the division may reimburse a foster parent for providing owner's or operator's security covering a foster child's operation of a motor vehicle in amounts required under Section 31A-22-304 if the foster child is in the legal custody of the division.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:
 - (a) a procedure for providing the reimbursement to a foster parent described in Subsection (1);
 - (b) eligibility requirements for a foster parent to qualify for a reimbursement under this section; and
 - (c) a method for determining the amount of reimbursement that a foster parent is eligible to receive under this section.
- (3) The division shall report to the Transportation Interim Committee no later than November 30, 2009:
 - (a) the number of foster children in the legal custody of the Division of Child and Family Services who have been issued a driver license;
 - (b) the results and impacts on the division and on foster parents signing for a foster child to receive a driver license; and
 - (c) the division's cost of reimbursing foster parents for providing owner's or operator's security in accordance with Subsection (1).

Enacted by Chapter 314, 2008 General Session